

**Staff  
Summary  
Report**



**To: Mayor & City Council**  
**Thru: City Manager**

**Agenda Item Number** 43  
**Meeting Date:** 1/11/01

**SUBJECT: AMERICA WEST AIRLINES PARKING REQUEST FOR PROPOSALS / DEVELOPER SELECTION / RESOLUTION No. 2001.03**

**PREPARED BY:** Steve Nielsen, Redevelopment Manager (480-350-8028)  
Neil Calfee, Senior Planner (480-350-2912)

**REVIEWED BY:** Dave Fackler, Development Services Manager (480-350-8530)

**BRIEF:** Request approval for the selection of developers in response to the City's March 31, 2000 Request for Proposals (RFP) for the sub-licensed use of the City's parking rights in the America West Airlines parking facilities.

**COMMENTS:** **AMERICA WEST PARK RFP (0403-02-16) RESOLUTION NO. 2001.03**  
Approval requested by the **CITY OF TEMPE** of Resolution No.2001.03 for the separate selection of The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc. as prime sub-licensees of 800 parking spaces located in the America West Corporate Center, between the Rio Salado Parkway and 3<sup>rd</sup> Street in Downtown Tempe.

Document Name: 20010111devsrh16

Supporting Documents: Yes (attached proposals)

**SUMMARY:** Two groups have responded to the City's March 31, 2000 RFP for the sub-license of the City licensed parking rights to 800 parking spaces located in the America West Airlines Corporate Center in Downtown Tempe. The purpose of the adoption of Resolution No. 2001.03 is to select The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc., separately, as prime sub-licensees of the 800 parking spaces with exclusive rights to negotiate a Sub-License Agreement with the City for use of the parking.

**HISTORY AND FACTS:**

Attached for the City Council's review and approval is Resolution No. 2001.03, which, if approved, will separately select The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc. as prime sub-licensees of 800 parking spaces located in the America West Corporate Center, between the Rio Salado Parkway and 3<sup>rd</sup> Street in Downtown Tempe. The resolution also provides for an exclusive negotiation period for negotiation of a Sub-License Agreement with the City for use of the parking.

A copy of each group's proposal letter is attached for the City Council's review. The proposal letters propose the separate sub-license of a portion of the City's parking rights to the parking owned by America West Airlines to each group..

The City owns the nighttime, weekend and holiday parking rights to the parking facilities located in the America West (AWA) Corporate Center. These parking rights were purchased as part of the Development and Disposition Agreement for the development of the AWA Corporate Center. The City issued the RFP for the sub-license of these parking rights to, in part, encourage further development of the north portion of the downtown.

The Aquarena Sports and Entertainment LLC proposes the long-term use of 655 of the 800 parking spaces (all the spaces in the parking structure) in support of the development of an Aquarena Sports and Entertainment complex proposed to be developed at the northeast corner of Rio Salado Parkway and Ash Ave. The Aquarena group is proposing that the sub-license for the parking spaces be negotiated as part of the Development and Disposition Agreement currently being negotiated between the Aquarena group and the City for the development of the Aquarena Complex.

The proposal of Michael Monti's Restaurants and Catering, Inc. proposes the short-term use of 145 of the 800 parking spaces (the surface parking lot) in support of the short-term needs of the existing Monti's Restaurant.

There are two formalities of the original RFP, that Monti's proposal did not meet, that the City Council will need to waive if the Monti's proposal is to be considered in its current form. First, the Monti's proposal was submitted an hour after the deadline for the submittal of proposals and was initially refused on that basis. Second, the original RFP was issued to support the further development of the north portion of the downtown area, although the RFP did contemplate short-term use of the parking until long term use was needed in support of further development. An attached letter, dated December 15, 2000, from Monti's indicates that a misunderstanding of the RFP deadline led to the their proposal being submitted late. The letter also requests the interim use of the parking and refers to a May 1998 settlement letter regarding the widening of the Rio Salado Parkway. The settlement letter did indicate that staff would recommend that Monti's be allowed to bid for up to 155 spaces, and that Monti's be allowed to the interim use of 145 spaces for the cost of operations and maintenance for a period of time between completion of the parking and the expected use of the parking by new retail development in the area.

Because there were no other proposals submitted for the use of the 145 spaces in the surface lot and that Monti's is only seeking the interim use of the parking for a term of five years or until retail operations commence in the Hayden Ferry South Development Project, staff would support the waiving of the two formalities of the RFP. Further staff would support the sub-licensing of the surface lot to Monti's for the short term as requested. Monti's proposes that the parking be sub-licensed for \$3500 per year. However, staff would recommend that the parking be sub-licensed at the cost of the actual prorata share ( $145/800$  or 18%) of the operations and maintenance cost of the parking as billed to the City by AWA.

**FISCAL NOTE:**

These two proposals propose the sub-licensing of a portion of the City's parking rights, but under different financial structures. In the case of the Aquarena the parking would be used as reserved parking for major events held at the Aquarena Complex, with all revenues from the parking being use to first pay for the Aquarena's prorata share of the operation, maintenance and debt service cost of the parking. The City will retain all remaining non-event parking rights to the parking structure which will continue to be managed by the DTC under the its agreement with the City.

In the case of Monti's all of the City parking license rights to the surface parking area will be sub-licensed to Monti's. Monti's will be responsible for management (including insurance) of those rights and to pay the 18% prorata share of the total expenses associated with the 800 spaces for operations and maintenance costs billed to the City by AWA.

**RECOMMENDATION:**

Approval of Resolution No. 2001.03

**RESOLUTION NO. 2001.03**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, SEPARATELY SELECTING THE AQUAREANA SPORTS AND ENTERTAINMENT LLC AND MICHAEL MONTI'S RESTAURANTS AND CATERING, INC. OR THEIR NOMINEES AS PRIME SUB-LICENSEES OF CERTAIN CITY-OWNED LICENSED PARKING RIGHTS TO PARKING LOCATED IN DOWNTOWN TEMPE, ARIZONA.**

**WHEREAS,** The City issued a Request for Proposals, dated March 31, 2000, for the sub-licensing of certain City-owned parking rights to parking located in the America West Corporate Center within the University-Hayden Butte Redevelopment Area, and

**WHEREAS,** The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc., separately, submitted sub-licensing proposals on November 20, 2000, acceptable to the City Council, for the sub-licensing of the City-owned parking rights within the Redevelopment Area, and

**WHEREAS,** the City Council desires to waive certain formalities contained in the Request For Proposals (RFP) related to timing for submittal of proposals in response to the RFP and related to the proposed length of the term and propose of the sub-license of the City-owned parking rights.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,** as follows:

Section 1: That, The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc., separately, or nominee be selected as prime sub-licensees to the City-owned parking rights as described in the March 31, 2000 Request for Proposals (RFP) substantially as proposed in their respective sub-license proposals submitted on or after November 20, 2000 in response to the RFP, subject to negotiation with the City of Tempe. Further, that The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc., separately, or nominee be given a 90-day exclusive negotiation period in

which to negotiate a Sub-Licensing Agreement with the City of Tempe for the use of the City-owned parking rights contained in the RFP.

Section 2: That the City Attorney be and hereby is authorized and directed to negotiate with The Aquareana Sports and Entertainment LLC and Michael Monti's Restaurants and Catering, Inc., separately, or nominee a Sub-Licensing Agreement for the use of the parking rights.

Section 3: That the formalities related to the timing of proposal submittal and duration of sub-licensing period contained in the RFP be and are hereby waived for the purpose of selecting Michael Monti's Restaurants and Catering, Inc as prime sub-licensee for the use surface-parking parking rights contained in the RFP.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,** this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Neil G. Giuliano, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

November 20, 2000

City Procurement Office  
City of Tempe  
P.O. Box 5002  
20 East 6<sup>th</sup> Street  
Tempe, AZ 85280

RESPONSE TO REQUEST FOR PROPOSAL (Not Numbered)

"Sub-License Use of nighttime use of 800 Parking Spaces Located between Rio Salado Parkway and 3<sup>rd</sup> Streets in Downtown Tempe, Arizona"

In response to the RFP issued on March 31, 2000, we are happy to respond based on precise direction given to us by Dave Fackler, Steve Nielsen, and other members of Tempe's City staff.

We would like to be able to reserve a Pro Rata share of the 650 parking spaces offered in the above RFP. The exact terms and conditions for such Pro-Rata sharing to be negotiated and to be included in the DDA currently under final negotiations between the City and the Aquarena Project.

All of the Aquarena Project and Team information requested in this RFP, as well as Project Description, Development Criteria, etc., were furnished to the City in May of this year, in conjunction with the Aquarena RFP response.

We look forward to a successful relationship and a splendid project.

Enclosed you will find an Exhibit describing our estimated Event times, and number of expected annual events.

If you have any questions, please call Joe Tyndall (602) 667-0200 or Zev Buffman (909-600-0006).

Sincerely yours,

THE AQUARENA SPORTS AND ENTERTAINMENT LLC.

By: 

Joseph A. Tyndall

## EXHIBIT

### Aquarena Evening and Weekend Parking Use Days

Aquarena Musical Spectacular:	138 Performances	=	93 days (Doubleheaders Sat. & Sun.)
Theater for Youth:	50 Performances	=	(All buses)
Swim Meets:	40 Events	=	30 days (Some buses)
Dry Concerts:	8 Performances	=	8 days
Dry Sporting Events:	6 Performances	=	6 days
Miscellaneous:	4 Events	=	<u>3 days</u>
<b>Total Estimated Parking/Event Days</b>		<b>=</b>	<b>140 days</b>

The other 225 days a year will involve programs such as: Swimming camps, handicapped swim classes, recreational swimming, drowning prevention, water polo, synchronized swim and diving classes, as well as rehearsals and set-up time for various events, not creating material demand on parking needs.

Proposal for Sub-Licensed Interim Use of 145 Parking Spaces in Support of Existing Uses for a Five (5) year Term or Until New Uses are Constructed, Submitted in Reply to Request for Proposal for Sub-License use of 800 Parking Spaces Located between Rio Salado Parkway and 3<sup>rd</sup> Streets in Downtown Tempe, Arizona.

Offeror:        Michael Monti's Restaurants and Catering, Inc [Monti's]

**Description**

Monti's proposes to sub-license the nighttime, weekend, holiday and special event use of 145 parking spaces located in the surface lot located at the America West Airlines Corporate Center at the northwest corner of Mill Avenue and 3<sup>rd</sup> Street. The proposed term for the sub-license is five (5) years, or until commencement of retail operations in the new construction for which the parking facility was designed begins.

Monti's proposes to use the parking spaces in support of its existing business operations while infill of the north portion of the Downtown progresses. Monti's, doing business as "Monti's la Casa Vieja", operates a high-volume 725-seat restaurant and banquet facility at 1 W. Rio Salado Parkway in the historic Hayden House, immediately adjacent to the surface lot that is the subject of this proposal. This business has continuously operated under the same name at this location since 1956.

This additional parking will help Monti's in two primary ways: First, the parking will aid Monti's in its continuing recovery from damage to its revenues and goodwill caused by the impact of reduction in available parking when the Rio Salado Parkway was widened and extended, as well as by the congestion and impediments to access caused by the actual construction of the Parkway. More specifically, remodeling of Tempe Beach Park and the work on the Rio Salado Parkway greatly diminished overflow parking that was previously available to customers along the former First Street and in the actual public lot that was located at the Park.

Additionally, the parking will assure that Monti's will be able to accommodate its traditional customer base for a transitional period while adaptations to the Monti's menu, decor and marketing methods are made to make the business more attractive to the demographics of future occupants of the new construction planned for the north portion of the Downtown. It is expected that new customers gained from the infill by virtue of these business adaptations will render Monti's less dependant on high customer volume and the consequent need for additional surface parking in the future.

Finally, as demand for Monti's services varies from season to season and week to week, Monti's would naturally reserve the right to sell any unneeded capacity during its licensed hours to the public for general-purpose

**Experience**



Monti's has much experience in operating its own surface parking facility, as well as the surface facility in question in this proposal. Monti's regularly controls access and regulates parking operations on weekend evenings, professional and ASU football game days, street fair and event days. This experience would be brought to bear in continuing such parking operations through the term of this agreement. Monti's also enjoys a close working relationship with America West Airlines management, and their headquarters building management company, Hines. In fact, in 1998 Monti's at its own initiative and its own expense entered into an agreement with Hines and America West to repave, landscape and illuminate its own surface parking lot to identical design standards with the America west surface lot in order to create a homogeneous and aesthetically pleasing appearance within the area bounded by Mill Avenue, Third Street, Rio Salado parkway and 3<sup>rd</sup> Street. Monti's expects to continue this cooperative relationship throughout the term of the proposed sub-license.

#### Corporate Organization

Monti's is incorporated as Michael Monti's Restaurants and Catering, Inc. Its shareholders are Michael L. Monti and R. Edward Goitia. Monti's operates. In addition to operating Monti's La Casa Vieja, Monti's operates related entities Michael Monti's of Scottsdale, Michael Monti's Mesa Grill and the @Café. Administrative functions for all of these entities are headquartered at Monti's La Casa Vieja. The following is the organizational hierarchy:

Michael L. Monti	President
R. Edward Goitia	Chief Executive Officer
Matthew J. McCurley	Vice President, Finance and Development
Brenda O'Brien	General Manager

Again, all of the above personnel are officed adjacent to the actual location of the parking spaces for which a sub-license is being sought. Thus, continued local supervision of the parking operation is absolutely assured.

#### Financial Capacity

- a. Financial Statement [See attached Exhibit 1]

#### Financial References

[See attached Exhibit 2]

#### Quality of Use / Cost to City

The proposed interim parking use will contribute towards the City's objective of redevelopment and infill by providing time and security for an established business to adapt to the new business environment being created in the Downtown area. This, in turn, will enable Monti's to begin considering development of the property it currently uses for surface parking.

The interim parking use herein proposed was explicitly contemplated by the City in the 1998 Settlement Agreement [Exhibit 4] between Monti's and the City related to the widening of the Rio Salado Parkway. Monti's proposes to pay the City of Tempe the actual cost of yearly maintenance and operations for the surface lot. Based on information provided by Hines, the management company currently operating the parking facility for America West Airlines, the aggregate cost of operations for the 145-space surface lot for a year of operations, including, *inter alia*, maintenance, utilities, insurance, cleaning and repairs is approximately three-thousand (\$3000.00). Allowing for an additional contingency of five-hundred dollars (\$500.00), Monti's proposes to pay the City of Tempe three thousand five hundred dollars (\$3500) per year for a term of five years, or until retail operations commence in the Haydens Ferry South development.

Submitted November 20, 2000

Michael L. Monti  
President

R. Edward Goitia  
Chief Executive Officer



December 15, 2000

Mr. Dave Fackler  
Manager of Development Services  
City of Tempe  
31 E. 5<sup>th</sup> Street – Garden Level

Dear Dave,


I am writing regarding our attempt to respond for the Request for Proposals for the use of 800 parking spaces at Mill Avenue and Third Street, which was intended to be submitted by Nov. 20<sup>th</sup>, 2000. Although we missed the deadline owing to a misunderstanding of the time of day by which it was to have been submitted, I am sending you this letter at the suggestion of Brad Woodford, with whom I spoke earlier today.

In May of 1998 we—Monti's--negotiated a settlement agreement with the City regarding the widening of the Rio Salado Parkway and its impact on Monti's. One element of that agreement was a promise that City staff would recommend to the City Council at the time of an RFP that a Monti's bid for up to 155 parking spaces—more specifically, the AWA surface lot-- be allowed for interim use prior to use by new establishments within the redevelopment area for the cost of operations and maintenance. [Please see a copy of the May 22, 1998 letter attached here.]

What we hope to do, given that the date for turning in official proposals has already elapsed, is to negotiate an interim use agreement that would fulfill the spirit of the understanding that Monti's arrived at with the City of Tempe in 1998. Naturally, we do not wish to circumvent any legal restrictions by which the City must abide. However, the 1998 agreement did result from an intention by Monti's and the City to reach a compromise on issues that were vital to both sides, and something of value was offered by both sides in order to settle the controversy at hand. With due respect to the importance of observing procedural formalities, it would be a shame if the mutually intended outcome of that settlement agreement were not to be attained owing to a technicality. We believe that there must be an acceptable and legal means of creating an interim use agreement for the AWA surface lot, and respectfully request that you help us in arriving at that outcome.

In conclusion, let us stress again that we are seeking an interim use, with the understanding that the long-term disposition of the City's controlled-use time at the AWA surface lot is subject to the normal RFP process. We look forward eagerly to the infill in the northern area of Downtown Tempe, and believe that the increased economic activity on the periphery of the Town Lake will help offset the eventual loss of the use of the AWA surface lot by Monti's. We only seek time for a smooth transition. We look forward to discussing this matter with you.

Sincerely,

  
Michael L. Monti  
President

  
R. Edward Goitia  
Chief Executive Officer



Writer's Direct Line 350-3227

501 0776

May 11, 1998

Mr. Michael L. Monti  
Mr. R. Edward Goltia  
Monti's La Casa Vieja  
3 West First Street  
Tempe, AZ 85281

Re: Settlement - Widening of Rio Salado Parkway

Dear Messrs. Monti and Goltia:

This letter shall constitute an agreement between the City of Tempe and you regarding the acquisition by the City of Tempe of a portion of property bordering the current right-of-way of Rio Salado Parkway and your north property line for the redevelopment and widening of Rio Salado Parkway. Attached hereto is a legal description and depiction of the portion of your real property which the City seeks to acquire for Rio Salado Parkway which is the same as that attached to the Entry Agreement dated April 6, 1998 between Michael Monti's Restaurants and Catering, Inc. and the City of Tempe.

The agreement between the parties as set forth herein is as follows:

1. Monti's will deed to the City of Tempe the real property which is the subject of the Entry Agreement.
2. The City of Tempe will pay to Monti's the sum of \$34,550.00 together with interest thereon at the rate of 10% per annum from April 6, 1998 until paid.
3. Title to the property being acquired by the City shall be delivered by Monti free of all liens and encumbrances by Warranty Deed. Title insurance if required will be paid by the City of Tempe.
4. The City of Tempe will replace the screening wall on the new property line for the parking area of Monti's and extend the brick pavement of the new sidewalk from the newly constructed sidewalk south to the existing north face of the restaurant building.

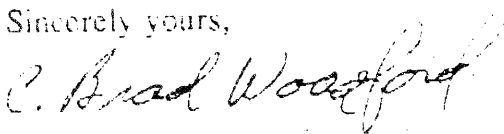
Mr. Michael L. Monti  
Mr. Edward Goitia  
May 22, 1998  
Page 2

5. The City of Tempe will not require Monti's to obtain any variances due to the acquisition of the additional property for Rio Salado Parkway nor due to the destruction of any existing parking used by Monti's on the street or right-of-way.
6. The staff of the City of Tempe will recommend to the City Council when a request for proposals is issued on the new parking spaces to be constructed on the America West adjoining parcel, that Monti's be allowed to bid for up to 155 spaces of the City's controlled use time, and that interim use for such 145 spaces be permitted for the cost of operations and maintenance for a period of time between completion of the parking spaces and expected use by new retail establishments within the redevelopment area.
7. The Public Works Department does not oppose an encroachment permit for an awning entrance way on Mill Avenue provided that such construction is approved by said department for safety and pedestrian access.

Lastly, the City shall work with Monti's to schedule the construction of Rio Salado Parkway and will be done in such a way as to not unreasonably interfere with Monti's customers to the extent possible and that all construction will be conducted in a way to avoid what is possible any damage to the historic Monti's restaurant building.

If you agree with the conditions set forth in this letter of agreement, please execute where indicated and escrow will be opened immediately with Chicago Title to close within 20 days from the date of execution of this letter.

Sincerely yours,



C. Brad Woodford  
Senior City Attorney

CBW/sg

cc: Judith Greenberg  
Dave Fackler

APPROVED:

  
MICHAEL L. MONTI

350-8227